

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

IN RE:)
)
 Jacqueline N. Dolan,) BK No. 15-02479-MH3-7
)
 Debtors,)
)
 SUSAN R. LIMOR, Trustee,) ADV. NO. 3:15-ap-90355
)
 Plaintiff,)
)
 BANK OF AMERICA, N.A.; AND JACQUELINE)
 N. DOLAN,)
)
 Defendants.)

**THE DEADLINE FOR FILING A TIMELY RESPONSE IS: October 23, 2015
IF A RESPONSE IS TIMELY FILED, THE HEARING WILL BE: November 17, 2015, 9:00 a.m.,
Courtroom 3, 2nd Floor, Customs House, 701 Broadway, Nashville, Tennessee 37203**

**NOTICE OF MOTION FOR ENTRY OF DEFAULT JUDGMENT AGAINST BANK OF
AMERICA, N.A.**

Susan R. Limor, Plaintiff, has asked the court for the following relief: default judgment against Bank of America, N.A.

YOUR RIGHTS MAY BE AFFECTED. If you do not want the court to grant the attached motion by entering the attached order, or if you want the court to consider your views on the motion, then on or before the response date stated above, you or your attorney must:

1. File with the court your response or objection explaining your position. Please note: the Bankruptcy Court for the Middle District of Tennessee requires electronic filing. Any response or objection you wish to file must be submitted electronically. To file electronically, you or your attorney must go to the court website and follow the instructions at: <https://ecf.tnmb.uscourts.gov>.

If you need assistance with Electronic Filing you may call the Bankruptcy Court at (615) 736-5584. You may also visit the Bankruptcy Court in person at: 701 Broadway, 1st Floor, Nashville, TN (Monday - Friday, 8:00 A.M. - 4:00 P.M.).

2. Your response must state the deadline for filing responses, the date of the scheduled hearing and the motion to which you are responding.

If a response is filed before the deadline stated above, the hearing will be held at the time and place indicated above. **THERE WILL BE NO FURTHER NOTICE OF THE HEARING DATE.** You may check whether a timely response has been filed by viewing the case on the court's website at <https://ecf.tnmb.uscourts.gov>.

If you or your attorney does not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter the attached order granting that relief.

This 2nd day of October, 2015

/s/ Erica R. Johnson

Erica R. Johnson
LIMOR & JOHNSON, ATTORNEYS AT LAW
2814 Dogwood Place
Nashville, Tennessee 37204
(615) 742-1304/Fax: (615) 742-0858
erica@limorlaw.com

CERTIFICATE OF SERVICE

I hereby certify that I have forwarded a true and exact copy of the Motion for Entry of Default Judgment, Order Granting Default Judgment, and Notice of Motion to the following on this 2nd day of October, 2015:

Bank of America, N.A. Attn: Officer or Manager 100 North Tryon Street Charlotte, North Carolina 28202 <i>VIA CERTIFIED MAIL WITH RETURN RECEIPT REQUESTED</i>	Bank of America, N.A. Bankruptcy Department Mail Stop CA6-919-01-23 400 National Way Simi Valley, CA 93065 <i>VIA REGULAR U.S. MAIL</i>
Bank of America Attn: Karen Mansilla, AVP NC4-105-02-99 4161 Piedmont Parkway Greensboro, NC 27410 <i>VIA REGULAR U.S. MAIL</i>	Jacqueline N. Dolan 4633 Fanning Drive Antioch, Tennessee 37013 <i>VIA REGULAR U.S. MAIL</i>
Tim W. Smith Attorney for Debtor <i>VIA CM/ECF Email Notice/Service - tim516@att.net, tim516@att.net</i>	Beth Derrick Assistant U.S. Trustee 701 Broadway, Suite 318 Nashville, Tennessee 37203 <i>VIA REGULAR U.S. MAIL</i>

/s/ Erica R. Johnson

Erica R. Johnson

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SUSAN R. LIMOR, Trustee,) ADV. NO. 3:15-ap-90355
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Plaintiff,)
)
BANK OF AMERICA, N.A.; AND)
JACQUELINE N. DOLAN,)
)
Defendants.)

**MOTION AND NOTICE FOR ENTRY OF DEFAULT JUDGMENT AGAINST BANK
OF AMERICA, N.A.**

Comes the within Plaintiff, by and through counsel, and files this Motion pursuant to the Summons and Notice of Pretrial Conference issued by this Court on August 7, 2015 for the entry of a judgment by default against Bank of America, N.A. (“BANA”). In support thereof, the Plaintiff would state as follows:

1. Plaintiff served a copy of the Complaint, Summons and Preliminary Pretrial Order on BANA on August 11, 2015, via Certified Mail with Return Receipt Requested, to the following principal place of business for BANA: Bank of America, N.A., Attn: Officer or Manager, 100 North Tryon Street, Charlotte, North Carolina 28202. Such Certified Mail was assigned tracking number 70141820000228579826.

2. BANA accepted delivery at this address on August 17, 2015. *See* Domestic Return Receipt and USPS Tracking Information for tracking number 70141820000228579826 attached hereto as Exhibit “A” and made a part hereof.

3. Plaintiff also served a copy of the Complaint, Summons and Preliminary Pretrial Order on August 11, 2015, via regular U.S. Mail, to the following addresses for BANA: (a) Bank of America, N.A., Bankruptcy Department, Mail Stop CA6-919-01-23, 400 National Way, Simi Valley, California 93065; and (b) Bank of America, Attn: Karen Mansilla, AVP, NC4-105-02-99, 4161 Piedmont Parkway, Greensboro, North Carolina 27410.

4. Plaintiff asserts that BANA received proper service of the Complaint, Summons and Preliminary Pretrial Order.

5. Plaintiff asserts that BANA has failed to answer, plead, or comply with the terms of this Court's Preliminary Pretrial Order entered on August 7, 2015 and the Plaintiff is entitled to the entry of a default judgment.

WHEREFORE, Plaintiff prays that the Court grant it the following relief:

A. That the Court grant a judgment of default against Bank of America, N.A. avoiding the interest and/or lien of Bank of America, N.A. against personal property described as a 2013 Nissan Altima, VIN 1N4AL3AP3DN550719 ("Property") pursuant to 11 U.S.C. § 544(a) and/or 11 U.S.C. § 549;

B. That the Court grant a judgment of default against Bank of America, N.A. for recovery of the lien or value of the Property for the benefit of the estate pursuant to 11 U.S.C. § 550;

C. That the Court grant a judgment of default against Bank of America, N.A. declaring that the avoided lien position is preserved for the benefit of the estate, pursuant to 11 U.S.C. § 551;

D. That the Court grant a judgment of default against Bank of America, N.A. declaring that the estate is entitled to the proceeds from the sale of the Property free and clear of any interest asserted by Bank of America, N.A.;

E. That the Court grant a judgment of default against Bank of America, N.A. for recovery of all pre-petition and post-petition payments made by the Debtor to Bank of America, N.A.;

F. That the Court grant a judgment of default against Bank of America, N.A. for the Plaintiff's attorney fees and expenses associated with bringing this cause of action pursuant to L.B.R. 3001-1(b); and

G. For such further relief as the court deems necessary.

Dated this 2nd day of October, 2015

Respectfully submitted,

/s/ Erica R. Johnson
Erica R. Johnson
LIMOR & JOHNSON,
ATTORNEYS AT LAW
2814 Dogwood Place
Nashville, Tennessee 37204
(615) 742-1304 – Telephone
(615) 742-0858 – Facsimile
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Attorneys for Trustee/Plaintiff

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Jacqueline N. Dolan,) BK No. 15-02479-MH3-7
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SUSAN R. LIMOR, Trustee,) ADV. NO. 3:15-ap-90355
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Plaintiff,)
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BANK OF AMERICA, N.A.; AND)
JACQUELINE N. DOLAN,)
)
Defendants.)

**PROPOSED ORDER GRANTING DEFAULT JUDGMENT AGAINST BANK OF
AMERICA, N.A.; AND AVOIDING THE SECURITY INTEREST OF BANK OF
AMERICA, N.A.**

Upon Motion of Plaintiff for the entry of a judgment by default against Bank of America, N.A. for failure of Bank of America, N.A. to answer Plaintiff's Complaint or otherwise plead within the time prescribed by law and comply with the Court's Preliminary Pretrial Order of August 7, 2015;

IT IS HEREBY ORDERED that said default is granted and Plaintiff is granted a default judgment against Bank of America, N.A. declaring the following:

A. That the security interest of Bank of America, N.A. in the Debtor's 2013 Nissan Altima, VIN 1N4AL3AP3DN550719 ("Property") is hereby avoided pursuant to 11 U.S.C. § 544(a) and/or 11 U.S.C. § 549.

B. That the Plaintiff is authorized to recover, for the benefit of the estate, the lien or the value of the Property from Bank of America, N.A. pursuant to 11 U.S.C. § 550.

C. That the avoided lien position is preserved for the benefit of the estate pursuant to 11 U.S.C. § 551.

D. That the estate is entitled to proceeds from the sale of the Property free and clear of any interest asserted by Bank of America, N.A.

E. That the Plaintiff is granted a default judgment against Bank of America, N.A. in the amount of all pre-petition and post-petition payments made by the Debtor to Bank of America, N.A.

F. That the Plaintiff is granted a default judgment against Bank of America, N.A. for her reasonable attorney fees and expenses for bringing this cause of action.

This order was signed and entered electronically as indicated at the top of the first page.

Submitted for Entry:

/s/ Erica R. Johnson
Erica R. Johnson
LIMOR & JOHNSON
ATTORNEYS AT LAW
2814 Dogwood Place
Nashville, Tennessee 37204
615-742-1304 – Telephone
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Attorneys for Trustee/Plaintiff